

United States District Court  
Southern District of New York

X Case 20 CV 5883

Chauncey Girard

Plaintiff,

-against-

Gutwein et al.

Defendants)

Court Grant leave to  
Amend Only regarding  
excluded video and  
witnesses

-Amended Complaint-

- Facts -

I would have injuries from a previous Excessive Force (2-23-2014 which would injure Figner (already Submitted Document 1-40) I would request Medical Attention all throughout my time at Green Haven and I would be denied my 8th Amendment I also Grieved this fact (See already Submitted Document 1-5 and 35-40) No permits were Issued and I would receive Permanent Damage on 9-11-2017 which caused me to put in a 1983 18-cv-2026 to try and resolve this by my protected Conduct

On the date of 7-31-2018 I would request Emergency Sick Call and I was Inside my cell when Tina Tomas would state they are Coming to get you. 15 minutes later instead of Medical coming to get me, two Officer and one Sgt came (Co) Polito (Co) Elvis and (Sgt) Elmore in which I was in my cell G-Block 348 and they told me I had to get handcuffed I told them about my Shoulder, and my Medical Provider Karabova would not order a permit. Regardless of the fact, I was in pain and hurt so I placed the handcuffs on. I wanted to receive the intended treatment I was then taken out of the cell in handcuffs further thrown on the wall in front of 348 and sexually Assaulted by (Co) Polito for 5 mins until I pulled away (see Document 39-4. 2042) Testimony of Harris, Sgt Elmore would watch the whole time the Sexual Assault and failed to do anything to prevent it regardless, of the retaliation 1st Amendment violation and 8th Amendment from requesting Emergency Sick Call I still would go to Sick Call in handcuffs; I just wanted to be treated the Deliberate

Indifference Did not stop, as I Continued to go I asked the (SGT) Elmore her name, we were on the second Deck moving on about to go to the first Deck Regardless of the Loss of range of Motion in my Left shoulder and the Sexual Assault for Self Gratification I was just about to go to the first Deck (Co) Polito pulled his pin and punched me in the face Willfully and Maliciously without provocation or a cause I tryed to run away to 5 Company so other could see the "Excessive Force" take place (Co) Elmo would join in the assault AND Battery and they would Ping Pong me, I would be punched in the face twice by (Co) Rios (Co) Polito would hit me twice and once in the Stomach (see Pictures Ex A) SGT Elmore failed to give a reasonable Degree of Force that should have been used and watched as the Officers Sprayed me and Continued to beat me with evil intent to harm, all in mechanical Restraints, In which SGT Blot Further Assaulted Once he came he would show no remorse and beat me all the way to SHU adding to the Injuries until loss of Consciousness (Co) Polito would falsify Document misbehavior reports to cover up the Assaults and beatings acting other then their normal course of their duty's in which they acted on their own personal Interest in which covering up their involvement By acting out of the Scope of there employment (Girard v 94 ST and Fifth Ave Corp 530 F.2d at 2d Cir 1976) also see Twombly 550 US at 570, 127 S.Ct 1950 and this to show that these Defendants are liable for the misconduct alleged (Ashcroft v Alqital 556 US 662, 687, 129 S.Ct 1937, 173 L.Ed 2d 868 (2009) Brandon v City of New York 705 F.Supp 2d 261, 270 (SDNY) In which all the officers knew of the Damage it would cause and failed to address it by requesting Medical assistance for ongoing Injuries and being assaulted in handcuffs giving false charges to cover up Assaults.

## Violation of Due Process

The fact of the matter there was a Assistant Form See Document 39-1 page 28 of 40 in which 11 people were requested to testify on behalf of the 7-31-2018 Assault that took place and out of the 11 offenders only 2 were able to testify. Some were threatened to say no other stated yes and were not called, Due to penalization or worst, Joshua Louder was penalized Due to testify, and was unable to do so, Due to Departure, from these same officers, who still covered it up and would fail to state why Joshua Louder would not be able to testify, Tague, K would also request to testify and Defendant Gutwein would not state why he could not testify as well Savino v City of New York 331 F3d 63 75 (2d Cir 2003) leaving lesser chance to receive the right judgement on behalf of the Plaintiff, as well as the Denial of camera footage 192 and 194 it would show the ongoing assaults from Officers in handcuffs and the elevator footage camera 33 as well and the extense of Injuries that would be hidden to oppose the judgement from Defendant Gutwein, in which is still ongoing in which I have still not obtained these Documents, Hurting my chance for rightful judgement, for false charged. Noonan v New York Police 2018 WL 1738746 in which Hardship became worst by these violations Edwards v Gutwein 2021 WL 22910669 SDNY and still is ongoing with other Plaintiffs.

Wherefore, Due to the, Miscarriage of Judgement by Defendant Gutwein, and his failure to give the Due Process Right, of the Plaintiff and produce the audio and Video of Camera footage Elevator 33, Knowing it would Show the ongoing assault from (SGt) M. Blot and others would prejudice the Plaintiff and the facts that were Presented Showed that Plaintiff had no way of a fair and Impartial hearing without the audio and video, of the requested audio and videos in which he gave EXCESSIVE Judgement to 150 Days loss of phone, packages, Commissary, SItu 6 month loss of ~~6~~ 6 month Loss of Good time mixed sanctions Violates Due Process (See Exhibits attached A Notice of Assistance-Assistant Form Document 39-1)

I which these request were order and never presented to help the Plaintiff became A hardship with penalties.

Wherefore, in Conclusion Due to this and the actions of the Defendants I would still have no right to these Documents and The Plaintiff would request the money Damages of 5,000,000.00 Dollars.

Sworn to before me this

Respectfully Submitted

15 Day of March 2022



Charney Gerard

Mary M Brower  
NOTARY Public

MARY M. BROWER  
Notary Public, State of New York  
No. 01BR6300423  
Qualified in Franklin County  
Commission Expires March 31, 20 22



## NOTICE OF ASSISTANCE - ASSISTANT FORM - PAGE 2

INMATE:

Girard, C

NUMBER:

11A1352

CELL:

shu-2

## TO BE COMPLETED BY ASSISTANT:

INITIALLY MET WITH THIS INMATE ON 8/13/18 AT 11:15 AM  
(DATE) (TIME)

## HE HAS REQUESTED THE FOLLOWING INMATES AS POTENTIAL WITNESSES:

NAME:	DIN:	CELL:	AGREES TO TESTIFY:
HARRIS, R	95A4995	G6-343	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Jacque, K	18B1450	G6-344	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Mc Neill, A	16A13532	G6-345	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Khan, N	16A5172	G6-350	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Brooks, R	15B3011	G5-243	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Elliis, D.	15B2607	G5-244	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Meyers, D.	12A0706	G6-245	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Lauder, J	17B3288	A6-351	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

## HE HAS REQUESTED THE FOLLOWING OTHER PERSONS AS POTENTIAL WITNESSES:

CO Roman (ID)	Adam Barta (OMH)
Sgt E/mor	

## OTHER REQUESTS:

UI

## ACTION TAKEN:

ORDERED 8/14/18

Camera footage Shu 192 & 191 w/mic 12:15-12:20 11A & 11B } Request  
 CO Roman pictures of injury } Request  
 Camera footage Shu elevator w/mic 12:15 Camera 33 } Request  
 Camera footage Bldng 2 hallway - NO camera  
 Camera footage Mental Health area in Shu w/mic 12:45 Camera 161/2  
 All injury reports pertaining to this incident - UI  
 Will hand deliver to Girard UI upon receipt *but*

## TO BE COMPLETED AT CONCLUSION OF ASSISTANCE:

I HAVE INTERVIEWED WITNESSES, ASSISTED AS REQUIRED AND REPORTED TO THE INMATE CHARGED.

ASSISTANCE'S SIGNATURE: *M. Holland*

DATE:

8/14/18

TIME: 120

INMATE'S SIGNATURE: \_\_\_\_\_

DATE:

TIME:

Refused  
Told he  
gets  
UI

INMATE REFUSED TO SIGN WITNESSED BY: \_\_\_\_\_

DATE:

08/11/2018  
DCP004

NYS DEPT OF CORRECTIONS & COMMUNITY SUPERVISION  
SUPERINTENDENT HEARING DISPOSITION RENDERED

PAGE 1

GRN HAVN GEN

TAPE NUMBER

DIN: 11A1352 NAME: GIRARD, CHAUNCEY

LOCATION: SH-UU-025

INCIDENT DATE & TIME: 07/31/2018 12:10 PM TIER 3

REVIEW DATE: 08/01/2018 BY: LT WILSON, C S

DELIVERY DATE & TIME: 02/11/88 12:39 PM BY: CO LEWIS

HEARING START DATE & TIME: 08/20/18 11:17 AM BY: CHS Gutwein

HEARING END DATE & TIME: 09/28/18 2:10 PM BY: CHO Gutierrez  
WAS THERE NEED FOR A FORMAL MENTAL HEALTH/INTELLECTUAL CAPACITY ASSESSMENT? Y / N  
DOES THIS MISCONDUCT MEET THE CRITERIA FOR WORKPLACE VIOLENCE? Y / N

CHARGE NUMBER	DESCRIPTION OF CHARGES	REPORTED BY	DISPOSITION
104.11	VIOLENT CONDUCT	CO POLITO, F J	<i>Revert</i>
100.11	ASSAULT ON STAFF	-----	<i>Revert</i>
106.10	REFUSING DIRECT ORDER	-----	<i>Revert</i>

ANY GUILTY DISPOSITION WILL RESULT IN A MANDATORY DISCIPLINARY SURCHARGE IN THE AMOUNT OF FIVE (\$5.00) DOLLARS BEING ASSESSED AUTOMATICALLY AGAINST THE INMATE. SANCTION DATES BELOW ARE SUBJECT TO REVIEW/CHANGE, AND WILL BE CONSECUTIVELY ADDED TO ANY SIMILAR CURRENT SANCTION. IN ADDITION, WHENEVER A CONFINEMENT PENALTY IS BEING SERVED AND A MORE RESTRICTIVE CONFINEMENT PENALTY IS IMPOSED AS A RESULT OF ANOTHER HEARING, THE MORE RESTRICTIVE PENALTY SHALL BEGIN TO BE SERVED IMMEDIATELY, AND ANY TIME OWED ON THE LESS RESTRICTIVE PENALTY SHALL BE SERVED AFTER COMPLETION OF THE MORE RESTRICTIVE PENALTY PERIOD.

PENALTY CODE	DESCRIPTION	PENALTY MO DAYS	START DATE	RELEASE DATE	SUSPEND MO DAYS	DEFERRED RESTITUTION MO DAYS	\$\$\$\$ . $\frac{cc}{cc}$
A002	SHU	150	07/31/18	12/27/18			
E000	Packages		09/28/18	02/25/19			
F000	Commissary						
G000	Phone						
H000	GoodTime	5MO					

Chamney (Grand) 11A1352  
Franklin GF.  
Po Box 10  
Malone New York 12953

Date: 3-15-2022

Case 20 CV 5883

Hon Cathy Siebel  
Southern District of New York  
300 Quarropas Street  
White Plains New York 10601

Dear Clerk of the Court:

Please be advised that enclosed you will find  
the motion that would be to submitted 3-15-2022  
by me do to lack of law library Notarized  
the Amended Complaint of Due Process for Defendant  
Gutierrez excluded video and witnesser please be so  
kind as to accept this motion please thank you

cc:

Respectfully  


## **AFFADAVIT OF SERVICE**

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF FRANKLIN )

Case 20-cv-5883

NAME OF DOCUMENTS: Amended Complaint with Exhibits A, B  
Assistant Form of Gutterman's Violation of Due Process  
Amended and Video (audio) ; and Judgment Violation Due  
Process to violation of 150, loss phone package comprising 8115 snr nts  
mixed sanctions

I, Chancey Grant, being duly sworn, deposes and says:

That I have on this 15 day of March, 2022, placed and submitted the copies of the within documents and or moving papers as indicated above, to be duly mailed via the US Postal Services, through the institutional mailroom here at Franklin CF., 62 Bare Hill Road, PO Box 10, Malone, New York 12953-0010, in a pre-paid first class wrapper to the following parties:

Southern District of New York

300 Quannapaw Street  
White Plains New York 10601

SWORN TO BEFORE ME THIS

15 DAY March, 2022

## Notary Public

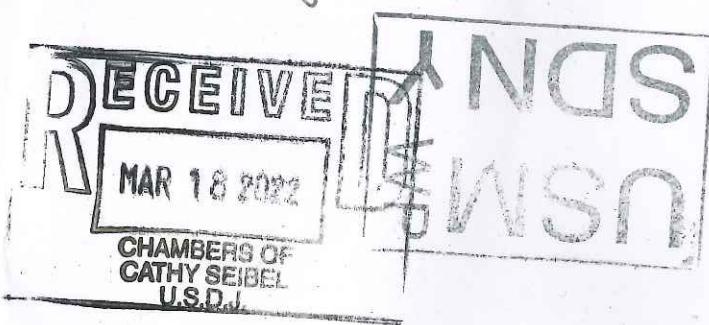
MARY M. BROWER  
Notary Public, State of New York  
No. 01BR6300423  
Qualified in Franklin County  
Commission Expires March 31, 2022

  
Chancy Evans

NEW YORK STATE

FRANKLIN CORRECTIONAL FACILITY  
62 BARE HILL ROAD, P.O. BOX 10  
MALONE, NEW YORK 12953

NAME: Cheney Ward DIN: 11A352



-Legal Mail-

1060184140 0004



rec'd 98  
03/16/2022  
US POSTAGE \$000.73

ZIP 12953  
041L11251101

Hon Judge Cathy Siebel  
United States Court Southern  
District of New York  
300 Quarropas Street  
White Plains New York

NEW YORK STATE  
DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION  
OFFENDER CORRESPONDENCE PROGRAM

NAME: Chancy Girard DIN: 11A132



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